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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/293,326	04/16/1999	STEPHEN M. BLANDING	1650	4722

7590 12/31/2003

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EXAMINER	
KENDALL, CHUCK O	

ART UNIT	PAPER NUMBER
2122	11

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/293,326	Applicant(s) BLANDING ET AL.	
	Examiner Chuck O Kendall	Art Unit 2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-49* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-49* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Remarks

1. This Office Action is the response to the communication received on October 14, 2003. Reconsideration of the instant application is requested by Applicant. All such supporting documentation has been placed of record in the file. Claims 1-49 are pending.

   a. Previously claims 1 - 43, were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shrader et al USPN 5,867,713 in view of Brown et al. USPN 6,401,238 B1.

   b. In this action claims 1 - 43 still remain rejected under the same grounds as stated above and in previous office action, and Applicant has added claims 44-49.

   c. In arguing Applicant asserts as stated in page 15, 3rd paragraph of response dated 10/14/03, that Brown doesn't disclose maintaining precedence information between software implementations and also argues for impermissible hindsight stating a lack of motivation for combining Shrader and Brown.

   d. Examiner has reproduced independent claims as rejected from previous office action for further clarification and completeness. New claims also stand rejected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-4,6-7,9,14,16-21, 26-27-32,34,35,38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shrader et al USPN 5,867,713 hereinafter Shrader in view of Brown et al. USPN 6,401,238 B1 hereinafter Brown.

Regarding claim 1, Shrader discloses, a network having software implementations deployed therein, a method for determining a set of software implementations to deploy to a client, selecting a software implementation, as a selected software implementation [3:8-16, see installation plan object and customization plan object as interpreted], determining if the software implementation also specified for deployment to the client, and if so, setting the selected software implementation for deployment and deselecting the at least one other software implementation [2:47-50, for selected software implementation see, adding additional child objects to installation plan, also see 10:27-29 for adding install objects to plan if needed]. Sharder doesn't explicitly disclose maintaining precedence information at a network location indicative of precedence relationships between software implementations that is specified for deployment to the client. However, Brown does disclose this feature (2:15-20, 40-45, for precedence see priority). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify, Sharder with Brown to implement the instant claimed invention because,

installing by precedence or priority in a distributed system provides is a general practice and makes installation of systems more targeted.

Regards to claim 2 the method of claim 1 wherein setting the selected software implementation for deployment comprises setting the selected software implementation for install [2:47-50, see installation plan].

Regarding claim 3 the method of claim 2 wherein setting the selected software implementation for install comprises the step of including the software implementation in a list of software implementations to install [15:15-30, see plan output file and plan section for list].

Regarding claim 4 the method of claim 1 further comprising installing the selected software implementation [claim 10].

Regards, to claim 6 the method of claim 1 wherein deselecting comprises the step of setting the at least one other software implementation for uninstall [16:27-30, Remove Network Installation Enablement statement (2078)].

Regards, to claim 7 the method of claim 1, further comprising uninstalling the at least one other software implementation [16:27-30, Remove Network Installation Enablement statement (2078)].

Regards, to claim 9 the method of claim 1 wherein the information indicative of precedence relationships between software implementations is maintained in a centralized class store of the network [2:45-50, shows installing child objects if required (precedence relationship) in a network to install and configure workstations in the LAN using a LAN server, see (48) fig 1].

Regarding claim 11, the method of claim 1 wherein the precedence information indicative of precedence relationship between software implementations is maintained in a class store of the network (Brown, fig 3, and fig 4).

Regarding claim 14 the method of claim 1 wherein the client is a user, and wherein the step of selecting a software implementation as a selected software implementation occurs in response to a user request [5:58-62].

Regarding claim 16 see reasoning in claim 1 with regards to limitation on Policy see prerequisite and plan [2:27-33], with regards to which software implementations to not apply to the client based on the precedence relationship (Brown, 6:50-55)

Regarding claim 17 see reasoning in claim 1.

Regarding 18 see claim 4 for reasoning.

Regarding claim 19 the method of claim 18 wherein the installation is mandatory [2:27-33, see prerequisite].

Regarding claim 20 the method of claim 18 wherein the client is a user, and wherein the step of installing the first software implementation is optional for that user [2:55-58, examiner interprets optional to be customizing functionality from prior art].

Regarding claim 21, method of claim 16 wherein determining which one of the plurality of software implementations to apply to the client comprises removing a first software implementation from a list of software implementations to install when a second software implementations has precedence over the first software implementation(4:35-45, for list see catalog).

Regarding claim 25, see brown, figs 3 and fig 4.

Regarding claim 26 the method of claim 25 wherein the step of specifying the precedence relationships for the groups of clients comprises the step of specifying a pilot group of clients that is small relative to a total number of clients of the network [2:55-57, see plan with customizing for particular workstations].

Regarding claim 27 the method of claim 26 wherein the step of specifying the precedence relationships for the groups of clients comprises the step of specifying a rollout group of clients that is relatively larger than the pilot group and smaller than the total number of clients of the network [2:43-47, see group in plan, representing a group of workstations].

Regarding claim 28, see reasoning in claim 1.

Regarding claim 29, see reasoning in claim 1.

Regarding claim 30, see reasoning in claim 16.

Regarding claim 31, method of claim 30 where the first software implementation is deployed to the client by installing the first software implementation on a computer system associated with the client (Brown, fig 4, see High which is installed first in it's time frame).

Regarding claims 32, the method of claim see reasoning in claim 21.

Regarding claim 34, see reasoning in claim 7.

Regarding claim 35, see reasoning in claim 7.

Regarding claim 38, see reasoning (Brown,abstract).

Regarding claim 39, precedence information is accessed in response to connecting to a network see Brown, figs 2 and 3.

Regarding claim 40, (Brown, see fig 5, PA, High performance criteria).

Regarding claim 41, (4:55-60 see test as interpreted)

Regarding claim 42, method of 41 selecting rollout groups of that clients that is relatively larger than the pilot group and relatively smaller that the total number of clients on network, (Brown, 6:53-56, see High performance set the larger set, as interpreted).

Regarding claim 43, see reasoning in claim 30.

Claim 5, & 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shrarder USPN 5,867,713 as applied in claim 1, in view of Brown et al. USPN 6,401,238 B1 hereinafter Brown and further in view of of Parthesarathy et al USPN 6,269480.

Regarding claim 5 Shrader discloses all the claimed limitations as applied in claim 1. Sharder doesn't explicitly disclose advertising the selected software implementation. However Parthesarathy does disclose notifying users of software, [see title, & et seq]. Therefore one of ordinary skill in the art at the time the invention was made would have been motivated to modify Shrader with Parthesarathy to implement the instant claimed invention because, advertising software in Networking environments is a general practice and enables system to be installed and updated as needed.

Regarding claim 33, see claim 5 for reasoning.

4. Claims 8,10,13,15 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shrarder USPN 5,867,713 as applied in claim 1, in view of Brown et al. USPN 6,401,238 B1 hereinafter Brown and further in view of Davis et al USPN 5,742,289

Regards, to claim 8 Shrader as modified discloses all the claimed limitations as applied above in claim 1. Shrader as modified doesn't explicitly disclose the step of removing the at least one other software implementation from the set of software implementations to deploy. However, Davis does disclose this limitation in a similar configuration [14:7-10]. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shrader as modified with Davis to implement the instant claimed invention because, removing or deleting files during installation prevents system conflict by removing duplicate or not needed files.

Regards, to claim 10 the method of claim 8 wherein the class store is associated with a group policy object provided for the client [Shrader, 2:45 see group plan].

Regarding claim 13 the method of claim 1 wherein the client is a user, and wherein the step of selecting a software implementation as a selected software implementation automatically occurs as part of a user logon [Davis, fig 5A (502)].

Regarding claim 15 the method of claim 1 wherein the client is a machine, and wherein the step of selecting a software implementation as a selected software implementation automatically occurs when the machine connects to the network [Davis,2:52-55].

Regarding claim 37, see reasoning in claim 13.

5. Claims 12, 22 & 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shrarder USPN 5,867,713 as applied in claim 1, in view of Brown et al. USPN 6,401,238 B1 hereinafter Brown and further in view of Nakajima 6,289,510.

Regards, to claim 12 Shrader as modified discloses all the claimed limitations as applied above in claim 1. Shrader as modified doesn't explicitly disclose precedence

relationships between software implementations includes a property value indicative of whether to replace or overlay another software implementation. However, Nakajima does disclose this limitation in a similar configuration [7:5-10]. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shrader as modified with Nakajima to implement the instant claimed invention because, using values to indicate overlaying or replacing a program during installation is a general practice during program updating and allows system to identify components which require replacing.

Regarding claim 22 see reasoning in claim 12.

Regarding claim 36 see reasoning in claim 12.

Claims 23 & 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shrarder USPN 5,867,713 as applied in claim 16, in view of Brown et al. USPN 6,401,238 B1 hereinafter Brown and further in view of Hendrickson et al USPN 5,933,646 hereinafter Hendrickson.

Regards, to claim 23 Shrader as modified discloses all the claimed limitations as applied above in claim 16. Shrader as modified doesn't explicitly the step of setting a first software implementation for uninstall when a second software implementation has precedence over the second software implementation. However, Hendrickson does disclose this limitation in a similar configuration [claims 1 and 5 for precedence see dependency]. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shrader as modified with henderickson to implement the instant claimed invention because, uninstalling components during an install or program update makes systems run more efficiently.

Regarding claim 24 the method of claim 23 further comprising the step of uninstalling the first software implementation and installing the second software implementation [Henderickson, claim 1 and claim 5].

Response to Arguments

6. Applicant's arguments with respect to claims 1 – 43, have been fully considered but they are not persuasive to overcome previous rejection. Regarding claims 44 – 49 have been considered but are moot in view of the new ground(s) of rejection.

(1) Regarding claims 1,16 and 30, Applicant argues that prior art doesn't teach or disclose maintaining precedence information between software implementations.

Response (1) Examiner believes, that prior art does teach these limitations. In column 2, lines 25 – 45 Brown shows selection of a particular versions based on priority values. Prior art also shows in column 2:10-15, a determination for selecting versions of software to be served. Examiner believes this to be the same as maintaining precedence information between software implementations, since a comparison is made between software using a rule to determine the appropriate version of software to serve.

(2) Regarding Applicants argument that prior art doesn't provide or suggest any motivation for combining reference, Examiner disagrees.

Response (2) Both Brown and Shrader deal with Network installation or Deployment and are analogous inventions. Although Sharder doesn't not disclose precedence information during deployment, Shrader does make reference to queues during installation of objects on the different work station. A queue has precedence

criteria which is governed by position, schedule or priority. Examiner believes this provides a suggestion for combining references.

Conclusion

7. **THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of** time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence Information

8. Any inquires concerning this communication or earlier communications from the examiner should be directed to Chuck O. Kendall who may be reached via telephone at (703) 308-6608. The examiner can normally be reached Monday through Friday between 8:00 A.M. and 5:00 P.M. est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam *can be* reached at *(703) 305-4552.*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

For facsimile (fax) send to central FAX number 703-872-9306 *and* 703-7467240 draft.

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